

APR 11 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

EMMA ESTRELLA LUNA POLIT,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72899

Agency No. A72-538-978

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Emma Estrella Luna Polit, a native and citizen of Ecuador, petitions for review of the final order of the Board of Immigration Appeals (“BIA”) affirming and adopting the immigration judge’s (“IJ”) decision denying her applications for

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

asylum, withholding of removal, and relief under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for substantial evidence, *see Cordon-Garcia v. INS*, 204 F.3d 985, 990 (9th Cir. 2000), we deny the petition.

The BIA declined to adopt the IJ's adverse credibility finding, but affirmed the IJ's conclusion that Polit did not meet her burden of proving eligibility for asylum. Polit did not adduce evidence sufficient to compel a finding of past persecution or a well-founded fear of future persecution based on enumerated grounds. *See Prasad v. INS*, 47 F.3d 336, 339-40 (9th Cir. 1995).

Because Polit failed to prove eligibility for asylum, she necessarily failed to meet the more stringent standard for withholding of removal. *See Al-Harbi v. INS*, 242 F.3d 882, 888-89 (9th Cir. 2001). Polit also failed to establish that she is entitled to relief under the Convention Against Torture because she did not show that it was more likely than not that she would be tortured if she returned to Ecuador. *See* 8 C.F.R. § 208.16(c)(2) (2004). Accordingly, we deny the petition for review.

PETITION FOR REVIEW DENIED.